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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

MARIA SOSA & Minor Children, Estate
of MAXIMILIANO SOSA, JR.

Case No.: 1:23-cv-01575 JLT [SAB]

**MARIA SOSA’S OBJECTION TO
MODIFIED’ ORDER RE:
PLAINTIFF’S EMERGENCY EX
PARTE APPLICATION FOR
ORDER ALLOWING PRIVATE
AUTOPSY PRIOR TO
EMBALMING OR FUNERAL**

MARIA SOSA (“Mrs. Sosa”) hereby objects to Plaintiff’s Emergency Ex Parte Application For Order Allowing Private Autopsy Prior to Embalming or Funeral based on the following objections and legal authority.

FACTUAL BACKGROUND

1. Maria Sosa (“Mrs. Sosa”) and Maximiliano Sosa, Jr. (“Mr. Sosa” or “Max Sosa, Jr.”) married on or about July 11, 2014, in the County of Fresno, State of California.
2. Mr. and Mrs. Sosa share two minor children, who are presently 4 and 2 years old.

- 1 3. At all times relevant herein, Mrs. Sosa has maintained legal and actual
2 custody and control of her minor children.
- 3
- 4 4. On November 4, 2023, at approximately 3:30 a.m., Fresno Police
5 Officers were summoned to Mrs. Sosa's apartment complex, located at
6 5555 N. Dante Avenue, Fresno, California 93722.
- 7
- 8 5. Fresno Police Officers, whose identities remain unknown to Mrs. Sosa,
9 arrived on scene, and entered the apartment for Mrs. Sosa. Shortly
10 thereafter, Max Sosa, Jr. was fatally shot multiple times by the
11 responding Fresno Police Officers.
- 12
- 13 6. Fresno Police Officers, whose identities remain unknown to Mrs. Sosa,
14 and/or Paramedics attempted CPR (Cardiopulmonary Resuscitation) for
15 several minutes following the shooting but were unable to revive Mr.
16 Max Sosa, Jr. He was pronounced dead shortly thereafter.
- 17
- 18 7. The activities undertaken by the unknown Fresno Police Officers
19 constituted inappropriate seizure of a person under the Fourth
20 Amendment of the United States Constitution as Decedent Max Sosa, Jr.
21 was: 1) not acting in the commission of any crime; 2) clearly unarmed at
22 the time; 3) compliant with the unknown Fresno Police Officers orders
23 at all times relevant herein.
- 24
- 25 8. The unjustifiable use of force by these unknown Fresno Police Officers,
26 upon Decedent Max Sosa, Jr. constituted excessive and deadly force in
27 violation of the Fourth and Fourteenth Amendments of the United States
28 Constitution.

1 9. Mrs. Sosa has retained the Law Offices of Steven A. Lerman to
2 investigate and prosecute a Civil Case against the City of Fresno, and the
3 unknown shooting officers for her and her minor children, and the Estate
4 of Maximiliano Sosa, Jr. – to which she is the rightful Successor-In-
5 Interest.

6
7 10. Mrs. Sosa anticipates she will file Federal and State Causes of Action
8 against the City of Fresno and the unknown police officers in the coming
9 weeks and months.

10
11 11. Plaintiff's Complaint for Damages and her Emergency Ex Parte
12 Application seeking relief allowing private autopsy contain numerous
13 false statements, designed to belittle and demean Mrs. Sosa's character
14 and person.

15
16 12. At the time of Decedent's untimely death, Mr. and Mrs. Sosa were
17 legally married. At no time during the marriage did either spouse file a
18 Petition for Dissolution of Marriage or Petition for Legal Separation.

19
20 13. The death certificate [attached hereto as **Exhibit 1**] makes clear that at
21 the time of Max Sosa Jr.'s death, he was legally married to Maria Del
22 Carmen Sosa.

23 **OBJECTIONS**

24 Mrs. Sosa objects to Plaintiff's Ex Parte Application for Order Allowing
25 Private Autopsy Prior to Embalming or Funeral as follows:
26

27 **A. Plaintiff Lacks Standing to Control the Disposition of Decedent's** 28 **Remains at Death**

1 At the time of his death, Max Sosa, Jr. did not have any Power of Attorney
2 or legal document that controls the disposition of his remains at death. Section
3 7100 of the Health and Safety Code establishes rights and duties in the disposition
4 of human remains, providing:

5
6 a) "The right to control the disposition of the remains of a deceased
7 person, unless other directions have been given by the decedent, vests
8 in, and the duty of interment and the liability for the reasonable cost
9 of interment of such remains devolves upon the following in the
10 order named:

11
12 a. The surviving spouse.

13
14 b. The surviving child or children of the decedent.

15
16 c. The surviving parent or parents of the decedent.

17 Based on the fact that Mrs. Sosa was Max Sosa, Jr.'s surviving spouse at
18 the time of his death, she is entitled to control the disposition of his remains. Mrs.
19 Sosa does not want to subject her deceased spouse to further desecration and/or
20 mutilation, but rather expedite the embalment and burial of his remains so that
21 she and her family may begin to visit him and attempt to continue with the
22 grieving process.

23 Mrs. Sosa has secured burial arrangements on behalf of Decedent, and has
24 paid in advance. Decedent Sosa is presently located at Wallin Funeral Home,
25 where he is ready to be embalmed and prepared for his final rest. Furthermore,
26 Mrs. Sosa is the surviving biological parent for Decedent's children, who also
27 maintain greater standing than Plaintiff to determine the disposition of Mr. Sosa's
28

1 Jr.'s remains. Based Mrs. Sosa's superior standing, she objects to Plaintiff's
2 autopsy.

3
4 **B. Plaintiff's Ex Parte Fails to Articulate Imminent/Irreparable Harm**
5 **and/or Justifiable Cause to Warrant a Private Autopsy**

6 Mrs. Sosa also objects on the grounds that Plaintiff has not articulated any
7 justifiable reason to subject Decedent Mr. Sosa, Jr. to a second autopsy. Following
8 pronouncing Max Sosa, Jr. deceased at the subject apartment complex, he was
9 transported to the Fresno County Coroner's Office, where an autopsy was
10 performed by Deputy Coroner Jenny Rene Strong, who determined that Max
11 Sosa, Jr.'s cause of death was gunshot wounds to his chest, and that his manner of
12 death was homicide, with the injury occurring as a result of Decedent being shot
13 by Law Enforcement.
14

15 Plaintiff's Ex Parte application is completely void of any factual or legal
16 authority that would warrant the need for a subsequent private autopsy. Moreover,
17 Plaintiff has failed to allege any real imminent or irreparable harm by allowing
18 Decedent to be embalmed and buried. Absent, showing some factual or legal need
19 to subject Decedent to a second autopsy is an abuse of power, and contrary to the
20 current state of the law. Furthermore, Plaintiff has not provided any specific detail
21 with respect to when Decedent Mr. Sosa, Jr. would be picked up, who would be
22 performing the autopsy, where the autopsy is to be performed, the scope and/or
23 limitations of the autopsy, financial details for autopsy, or when Decedent Mr.
24 Sosa, Jr. would be returned to the funeral home.
25

26 Plaintiff's attempt to secure a private autopsy has hindered with Mrs. Sosa's
27 desire and ability to put her deceased spouse to rest. As stated previously, Mrs.
28

1 Sosa has secured burial arrangements for her husband, and has undertaken
2 financial responsibility for such. Plaintiff's attempt to delay and subject Decedent
3 to an unnecessary and needless private autopsy interferes with the current
4 contractual arrangement she has with the funeral home, and jeopardizes her
5 current plans for his burial service and arrangements. Furthermore, Plaintiff's
6 have not offered nor have they provided any financial assistance for Decedent's
7 burial service.
8

9 **CONCLUSION**

10
11 For the foregoing reasons, Mrs. Sosa respectfully requests that this Court
12 deny Plaintiff's Ex Parte Application For Order Allowing Private Autopsy Prior to
13 Embalming or Funeral.
14

15 Dated: November 13, 2023

STEVEN A. LERMAN & ASSOCIATES, INC

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17
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19 By: 

20 NICHOLAS M. LERMAN
21 Attorney for Maria Sosa
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“EXHIBIT 1”

CERTIFICATION OF VITAL RECORD

COUNTY of FRESNO

DEPARTMENT OF PUBLIC HEALTH
FRESNO, CALIFORNIA

3052023243671

CERTIFICATE OF DEATH

3202310006751

STATE FILE NUMBER 3052023243671		LOCAL REGISTRATION NUMBER 3202310006751	
1. NAME OF DECEDENT - FIRST (Given) MAXIMILIANO		3. LAST (Family) SOSA, JR	
2. MIDDLE -		4. DATE OF BIRTH mm/dd/yyyy [REDACTED]	
5. AGE Yrs. 33		6. SEX M	
7. DATE OF DEATH mm/dd/yyyy 11/04/2023		8. HOUR (24 Hours) 0458	
9. BIRTH STATE/FOREIGN COUNTRY CA		10. SOCIAL SECURITY NUMBER [REDACTED]	
11. EVER IN U.S. ARMED FORCES? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		12. MARITAL STATUS/DESP (at Time of Death) MARRIED	
13. EDUCATION - Highest Level/Degree (see worksheet on back) HS GRADUATE		14. YES DECEDENT HISPANIC/LATINO/SPANISH? (if yes, see worksheet on back) <input checked="" type="checkbox"/> YES MEXICAN <input type="checkbox"/> NO	
15. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) MEXICAN AMERICAN		16. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) MEXICAN AMERICAN	
17. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED HEAVY EQUIPMENT MECHANIC		18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.) HEAVY EQUIPMENT REPAIR	
19. YEARS IN OCCUPATION 13		20. DECEDENT'S RESIDENCE (Street and number, or location) [REDACTED]	
21. CITY DEL REY		22. COUNTY/PROVINCE FRESNO	
23. ZIP CODE 93616		24. YEARS IN COUNTY 33	
25. STATE/FOREIGN COUNTRY CA		26. YEARS IN COUNTY 33	
27. INFORMANT'S NAME, RELATIONSHIP MARIA DEL CARMEN SOSA, SPOUSE		28. INFORMANT'S MAILING ADDRESS (Street and number, or location, city, or town, state and zip) [REDACTED]	
29. NAME OF SURVIVING SPOUSE/SPRP - FIRST MARIA DEL CARMEN		30. LAST (Family Name) LOFEZ	
31. NAME OF FATHER/PARENT - FIRST MAXIMILIANO		32. MIDDLE -	
33. NAME OF MOTHER/PARENT - FIRST MARTHA		34. LAST (Family Name) SOSA, JR	
35. MIDDLE -		36. LAST (Family Name) ZEPEDA	
37. BIRTH STATE UNK, MX		38. BIRTH STATE UNK, MX	
39. DISPOSITION DATE mm/dd/yyyy 11/21/2023		40. PLACE OF FINAL DISPOSITION SANGER CEMETERY DISTRICT 568 S. RAINBOW ROUTE, SANGER, CA 93657	
41. TYPE OF DISPOSITION(S) BURIAL		42. SIGNATURE OF EMBALMER ARI RAFAEL OCHOA	
43. NAME OF FUNERAL ESTABLISHMENT WALLIN'S SANGER FUNERAL HOME		44. LICENSE NUMBER FD502	
45. SIGNATURE OF LOCAL REGISTRAR RAIS VOHRA, MD		46. LICENSE NUMBER EMB8242	
47. DATE mm/dd/yyyy 11/08/2023		48. SIGNATURE OF LOCAL REGISTRAR RAIS VOHRA, MD	
101. PLACE OF DEATH APARTMENT COMPLEX		102. IF HOSPITAL, SPECIFY ONE <input type="checkbox"/> P <input type="checkbox"/> EMDP <input type="checkbox"/> DCA <input type="checkbox"/> Hospice <input type="checkbox"/> Nursing Home/CLC <input type="checkbox"/> Decedent's Home <input checked="" type="checkbox"/> Other	
103. COUNTY FRESNO		104. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) 5555 N. DANTE AVE APT # 124	
105. CITY FRESNO		106. CITY FRESNO	
107. CAUSE OF DEATH Enter the chain of events - diseases, injuries, or complications - that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. IMMEDIATE CAUSE (Final disease or condition resulting in death) (A) GUNSHOT WOUNDS TO CHEST (B) (C) (D) Sequentially, list conditions, if any, leading to cause on Line A. Enter UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z) (AA) (AB) (AC) (AD) (AE) (AF) (AG) (AH) (AI) (AJ) (AK) (AL) (AM) (AN) (AO) (AP) (AQ) (AR) (AS) (AT) (AU) (AV) (AW) (AX) (AY) (AZ) (BA) (BB) (BC) (BD) (BE) (BF) (BG) (BH) (BI) (BJ) (BK) (BL) (BM) (BN) (BO) (BP) (BQ) (BR) (BS) (BT) (BU) (BV) (BW) (BX) (BY) (BZ) (CA) (CB) (CC) (CD) (CE) (CF) (CG) (CH) (CI) (CJ) (CK) (CL) (CM) (CN) (CO) (CP) (CQ) (CR) (CS) (CT) (CU) (CV) (CW) (CX) (CY) (CZ) (DA) (DB) (DC) (DD) (DE) (DF) (DG) (DH) (DI) (DJ) (DK) (DL) (DM) (DN) (DO) (DP) (DQ) (DR) (DS) (DT) (DU) (DV) (DW) (DX) (DY) (DZ) (EA) (EB) (EC) (ED) (EE) (EF) (EG) (EH) (EI) (EJ) (EK) (EL) (EM) (EN) (EO) (EP) (EQ) (ER) (ES) (ET) (EU) (EV) (EW) (EX) (EY) (EZ) (FA) (FB) (FC) (FD) (FE) (FF) (FG) (FH) (FI) (FJ) (FK) (FL) (FM) (FN) (FO) (FP) (FQ) (FR) (FS) (FT) (FU) (FV) (FW) (FX) (FY) (FZ) (GA) (GB) (GC) (GD) (GE) (GF) (GG) (GH) (GI) (GJ) (GK) (GL) (GM) (GN) (GO) (GP) (GQ) (GR) (GS) (GT) (GU) (GV) (GW) (GX) (GY) (GZ) (HA) (HB) (HC) (HD) (HE) (HF) (HG) (HH) (HI) (HJ) (HK) (HL) (HM) (HN) (HO) (HP) (HQ) (HR) (HS) (HT) (HU) (HV) (HW) (HX) (HY) (HZ) (IA) (IB) (IC) (ID) (IE) (IF) (IG) (IH) (II) (IJ) (IK) (IL) (IM) (IN) (IO) (IP) (IQ) (IR) (IS) (IT) (IU) (IV) (IW) (IX) (IY) (IZ) (JA) (JB) (JC) (JD) (JE) (JF) (JG) (JH) (JI) (JJ) (JK) (JL) (JM) (JN) (JO) (JP) (JQ) (JR) (JS) (JT) (JU) (JV) (JW) (JX) (JY) (JZ) (KA) (KB) (KC) (KD) (KE) (KF) (KG) (KH) (KI) (KJ) (KK) (KL) (KM) (KN) (KO) (KP) (KQ) (KR) (KS) (KT) (KU) (KV) (KW) (KX) (KY) (KZ) (LA) (LB) (LC) (LD) (LE) (LF) (LG) (LH) (LI) (LJ) (LK) (LL) (LM) (LN) (LO) (LP) (LQ) (LR) (LS) (LT) (LU) (LV) (LW) (LX) (LY) (LZ) (MA) (MB) (MC) (MD) (ME) (MF) (MG) (MH) (MI) (MJ) (MK) (ML) (MN) (MO) (MP) (MQ) (MR) (MS) (MT) (MU) (MV) (MW) (MX) (MY) (MZ) (NA) (NB) (NC) (ND) (NE) (NF) (NG) (NH) (NI) (NJ) (NK) (NL) (NM) (NO) (NP) (NQ) (NR) (NS) (NT) (NU) (NV) (NW) (NX) (NY) (NZ) (OA) (OB) (OC) (OD) (OE) (OF) (OG) (OH) (OI) (OJ) (OK) (OL) (OM) (ON) (OO) (OP) (OQ) (OR) (OS) (OT) (OU) (OV) (OW) (OX) (OY) (OZ) (PA) (PB) (PC) (PD) (PE) (PF) (PG) (PH) (PI) (PJ) (PK) (PL) (PM) (PN) (PO) (PP) (PQ) (PR) (PS) (PT) (PU) (PV) (PW) (PX) (PY) (PZ) (QA) (QB) (QC) (QD) (QE) (QF) (QG) (QH) (QI) (QJ) (QK) (QL) (QM) (QN) (QO) (QP) (QQ) (QR) (QS) (QT) (QU) (QV) (QW) (QX) (QY) (QZ) (RA) (RB) (RC) (RD) (RE) (RF) (RG) (RH) (RI) (RJ) (RK) (RL) (RM) (RN) (RO) (RP) (RQ) (RR) (RS) (RT) (RU) (RV) (RW) (RX) (RY) (RZ) (SA) (SB) (SC) (SD) (SE) (SF) (SG) (SH) (SI) (SJ) (SK) (SL) (SM) (SN) (SO) (SP) (SQ) (SR) (SS) (ST) (SU) (SV) (SW) (SX) (SY) (SZ) (TA) (TB) (TC) (TD) (TE) (TF) (TG) (TH) (TI) (TJ) (TK) (TL) (TM) (TN) (TO) (TP) (TQ) (TR) (TS) (TT) (TU) (TV) (TW) (TX) (TY) (TZ) (UA) (UB) (UC) (UD) (UE) (UF) (UG) (UH) (UI) (UJ) (UK) (UL) (UM) (UN) (UO) (UP) (UQ) (UR) (US) (UT) (UU) (UV) (UW) (UX) (UY) (UZ) (VA) (VB) (VC) (VD) (VE) (VF) (VG) (VH) (VI) (VJ) (VK) (VL) (VM) (VN) (VO) (VP) (VQ) (VR) (VS) (VT) (VU) (VV) (VW) (VX) (VY) (VZ) (WA) (WB) (WC) (WD) (WE) (WF) (WG) (WH) (WI) (WJ) (WK) (WL) (WM) (WN) (WO) (WP) (WQ) (WR) (WS) (WT) (WU) (WV) (WW) (WX) (WY) (WZ) (XA) (XB) (XC) (XD) (XE) (XF) (XG) (XH) (XI) (XJ) (XK) (XL) (XM) (XN) (XO) (XP) (XQ) (XR) (XS) (XT) (XU) (XV) (XW) (XX) (XY) (XZ) (YA) (YB) (YC) (YD) (YE) (YF) (YG) (YH) (YI) (YJ) (YK) (YL) (YM) (YN) (YO) (YP) (YQ) (YR) (YS) (YT) (YU) (YV) (YW) (YX) (YY) (YZ) (ZA) (ZB) (ZC) (ZD) (ZE) (ZF) (ZG) (ZH) (ZI) (ZJ) (ZK) (ZL) (ZM) (ZN) (ZO) (ZP) (ZQ) (ZR) (ZS) (ZT) (ZU) (ZV) (ZW) (ZX) (ZY) (ZZ)			

CERTIFIED COPY OF VITAL RECORDS
STATE OF CALIFORNIA, COUNTY OF FRESNO

This is a true and exact reproduction of the document officially registered and placed on file in the Vital Records Section, Fresno Co. Department of Public Health.

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DATE ISSUED

This copy not valid unless prepared on engraved border displaying date, seal and signature of Registrar.

FRESNO COUNTY LOCAL REGISTRAR

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE